

**Chantel Barrett**

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**From:** Andrew Melton <amelton@a2amedia.com>  
**Sent:** Tuesday, April 30, 2019 12:35 PM  
**To:** NYSBml\_Bernstein's\_Chambers\_Staff  
**Cc:** Alan Melton  
**Subject:** FW: SIPC v. BLMIS - Adv. Pro. No. 08-01789 (SMB)  
**Attachments:** SFX435F.pdf; 1ZA699\_101909[1].pdf

Dear Judge Bernstein,

My brother, Dr. Alan Melton (copies here) and I do not believe that our case should be dismissed for valid and legal reasons. We would ask you to please review the emails we sent the lawyers at Baker Hostetler on April 18<sup>th</sup> and April 22<sup>nd</sup> immediately below. Simply stated, our father (deceased in 2010), my brother and I requested Madoff to change the name of the Ernest Melton Trust to the Diana Melton Trust in July of 2007 with a new TIN number, 18 months prior to the discovery of the Madoff fraud. The Diana Melton Trust was originally drawn up in 1986 and amended subsequently as tax laws changed and precipitated when our mother died in 2007. The notification from us to Madoff (attached) was accomplished with the assistance of our father's estate tax planning attorney. There is no question that a new account number should have automatically been assigned, in which case, the Diana Melton Trust would have and should have been a NET LOSER.

The letter sent to you earlier today indicated that the Trustee's representatives held a court hearing on April 24<sup>th</sup>, 2 days after I sent my email (below) to these same lawyers. We were never notified of the hearing, so it was therefore a one-sided hearing without giving us any opportunity to respond. This, in medicine, is similar to operating on a patient without getting a signed release by the patient. It is similar to declaring a woman having breast cancer without first performing an examination, a mammogram and/or breast ultrasound and subsequent biopsy, which is standard of care. The woman is declared to be ridden with cancer before anything is correctly performed. Our objection is similar - it was pre-determined before the real case from the objecting party could be brought forth and presented to the overseeing Judge.

Thank you kindly in advance for reviewing. We would hope that you do not sign what you were sent earlier.

Sincerely yours,  
Alan & Andrew Melton

**From:** Andrew Melton  
**Sent:** Monday, April 22, 2019 9:00 AM  
**To:** Alan Melton <[alanrmelton@gmail.com](mailto:alanrmelton@gmail.com)>; Chan, Angeline <[achan@bakerlaw.com](mailto:achan@bakerlaw.com)>  
**Cc:** Cremona, Nicholas J. <[ncremona@bakerlaw.com](mailto:ncremona@bakerlaw.com)>; Rose, Jorian L. <[jrose@bakerlaw.com](mailto:jrose@bakerlaw.com)>; Vanderwal, Amy E. <[avanderwal@bakerlaw.com](mailto:avanderwal@bakerlaw.com)>; Blanchard, Jason I. <[jblanchard@bakerlaw.com](mailto:jblanchard@bakerlaw.com)>  
**Subject:** RE: SIPC vs. BLMIS Adv. Pro. No. 08-01789 (SMB)

All,

I have been following my brother Alan's emails and frankly the replies do not address correcting or revisiting the issue of the Diana Melton Trust account ("DMT"). I am outlining why I think it should be revisited as it was a brand new account setup in 2007 at our direction. And I don't believe that because I am not a lawyer, that this should not be reviewed. The first section outlines the reasoning, while the second section sheds some more light on our father's mental capacity

after all his monies were wiped out in 2008. I would implore you to read this both from a legal and emotional viewpoint. Reconsideration should be given based on the facts of course.

## Section 1

Upon researching my records, I found the attached letter, SFX435F, which gave direction to BLMIS in July of 2007 regarding the DMT account, one year prior to the Madoff unravelling.

- 1) Our father, Dr. Ernest Melton; my brother, Dr. Alan Melton; and I signed the attached document in 2007. The **intent**, as my brother indicated, was to create a NEW trust account for estate tax planning purposes so a maximum of \$2M (the maximum at that time) could be passed on tax-free upon our father's death.
- 2) I would ask you how many other cases before the court had the same/similar set of circumstances whereby for estate planning purposes a new trust with a new name and new TIN number were created? Not many I would guess. The **intent** in 2007 was to create this new trust account (which it was) again for estate tax planning purposes.
- 3) I contacted my Fidelity Investments advisor several times and asked if I wanted to change my existing trust in my name (Andrew Melton Trust) to a new name (my wife, Andrea Melton trust), I was informed that I would need a new TIN number registered with the IRS, and then this would mean a new account (Trust) would be opened and a **new account number** would be assigned to this new account. The process would require documentation to submit to effectively open a NEW account and a new ACCOUNT NUMBER would be associated with the new Trust. I also contacted Bank of America as well as Merrill Lynch and asked the same and received the same response, i.e., a new account number would most assuredly have been assigned if there was a new name and a new TIN number. This is STANDARD practice with any financial institution in the U.S.

Just because BLMIS did not do this, why should our father's **intent** be challenged in these set of circumstances? Why should we be damaged by this when Madoff operated their own fraud with their own rules. Madoff did not change the account number when he should have. Our father, my brother and I only assumed that a new account number would have been assigned as again every other financial institution in the country operates this way. The IRS deemed it a new trust/account and taxes were due them and paid. And if the account number was changed by Madoff, as it should have been, then it was a **brand new account** with \$727,500 in 2007.

And with all due respect to Mr. Picard and his legal team, due diligence about this would have revealed that this was a brand new account and should have had a new account number. Evidently, since this was followed through using the same account number Mr. Madoff issued by error, Mr. Picard did not pick this up that the IRS was paid under this new TIN and Name in 2007. With all the work spent on this bankruptcy proceeding and with all the lawyers, teams of law firms and paralegals, this should have been discovered, corrected and not deemed an inter-account transfer. An inter account transfer is between existing accounts, it is not applicable to closing one account and creating a new one by assigning a new name and new TIN number, and effectively what should have been a new account number as well, to that account.

## Section 2

Our father lost his wife, our mother, in 2007. He was devastated as she was his rock and he could not imagine surviving her. That was not the plan, but that was the reality. Approximately 18 months later our worlds were toppled financially when the Madoff fraud was discovered. Our father did not want to live any longer even though physically he was in decent shape for a then 93 year old man. We moved him into an independent living facility so he could be with other people. Besides the suicidal incident my brother indicated, I want to give more detail in our father's last 2+ years of life.

I should mention that our father was a doctor as well, a radiologist in Brooklyn NY. He and his partners were at the forefront of cobalt radiation treatment for cancer, saving people's lives. Cobalt machines were expensive and required specialist support. Cobalt therapy was a revolutionary advance in radiotherapy in the post-World War II period, but of course was replaced years later by other advanced technologies.

I was fortunate enough to be able to travel to Florida (where our parents lived) on a monthly basis for 3-4 day periods to visit our father in his last 2+ years. We would go to the cemetery regularly to visit our mother, his wife, and he would break down in tears every time telling our mom that he had no more legacy to give. His financial world was shattered. I remember visiting our father in the hospital when he probably thought of a dozen ways to kill himself while I sat next to him in his hospital bed hearing this. He asked me if I could get a knife for him. He asked if we could drive into the ocean. He asked if I could get pills so he could OD. The list went on. This is how a great man was reduced mentally in his final years.

Due to Mr. Picard's findings in the denial letter attached, which was based on Madoff's errors in not changing the account number which should have been done, our father was denied the dignity of dying in peace. I believe if this was your parent, you would all react the same way seeking fairness. We are not asking for anything other than what should have been rightfully due our father in 2009 when the account should have been deemed a net loser.

**So what are we asking? Just fairness so our father looking down could believe justice was done.**

I look forward to hearing from you with a reconsideration of reviewing this most unique set of circumstances.

Sincerely yours,  
Andrew Melton

**From:** Alan Melton <[alanrmelton@gmail.com](mailto:alanrmelton@gmail.com)>  
**Sent:** Thursday, April 18, 2019 10:29 PM  
**To:** Chan, Angeline <[achan@bakerlaw.com](mailto:achan@bakerlaw.com)>  
**Cc:** Cremona, Nicholas J. <[ncremona@bakerlaw.com](mailto:ncremona@bakerlaw.com)>; Rose, Jorian L. <[jrose@bakerlaw.com](mailto:jrose@bakerlaw.com)>; Vanderwal, Amy E. <[avanderwal@bakerlaw.com](mailto:avanderwal@bakerlaw.com)>; Blanchard, Jason I. <[jblanchard@bakerlaw.com](mailto:jblanchard@bakerlaw.com)>  
**Subject:** Re: SIPC vs. BLMIS Adv. Pro. No. 08-01789 (SMB)

Please pass this on to whomever is in charge of this dreadful situation.

> On Apr 18, 2019, at 5:28 PM, Chan, Angeline <[achan@bakerlaw.com](mailto:achan@bakerlaw.com)> wrote:  
>  
> <08-01789 Reply in Opp. to Melton Objection (30th Omnibus Motion).pdf>

The facts in this pdf are totally fictitious and not justified. This is a total supposition on the part of the Trustee after the time of my mother's passing.

This has

1. No relation to the Melton Family Trust (which was Dr Melton's LLC which was made up of Dr Melton and his wife, and separately, his three children as members of the Trust - so let us eliminate any referrals to the Melton Family Trust. That Trust came us the fantasy formula of Money In- Money Out . If I treated my patient's that way, in that if they didn't obey every instruction I gave them, then they would be suffering and I would probably lose them all as patients.

2. The creation of the Diana Melton Irrevocable Trust was done shortly after my mother's passing. It had a new tax ID and a new name. Any creation in the USA of a new account is given a new account number but Mr. Madoff was not up-

to-date with those aspects, as he was trying to cover his fraud and his programmer's did not change anything as any normal institution in this country would have. Therefore, the Diana Melton Trust , - should have received a new account number when it was formed. IT DID NOT. Madoff and his programmer's, ignored it as they made many other day to day corrections in their forms and statements they sent to clients. Madoff was so embroiled in 2007, that listening to or following the instructions for one small account did not concern them.

Hence the Trustee, following this illegality on the part of Madoff not creating a new account number as is legally required and done by every bank, investment firm, etc, was just as illegal.

The request to form the account and then withdraw the money was not followed. The money was requested to be pulled out - which we waited for - NEVER happened. I guess, only the big clients, were listened to.

We then gave up and said that after the new "account" with a new TIN and name, to reinvest the money back to Madoff.

It should never have gone back to the same account as Dr Ernest Melton by the Trustee.

However, I will absolutely state, as a physician and a son, that to get a call from my father after Madoff went down, every night of 2008-9 after all accounts were declared NET WINNERS was unconscionable. The Trustee mentally destroyed my father - his will to live, shortly , within 2 years of his wife of over 65 years passed away - was gone. I have REAL records of him attempting suicide by cutting the netting on the fourth floor of his independent care facility and trying to jump , at age 94- then being found by personnel and being pulled down and institutionalized - that is beyond all human decency. Should the Trustee be categorized and place in the same heading as crimes against humanity. Finally, the night of my father turning 95, he overdosed at the hospital as was found unresponsive the next morning.

I , as a physician, who deal with cancer and women's lives, every day, find the behavior on the part of the Trustee irresponsible, reprehensible - never taking into account individual circumstances - it is against everything both my father and I swore to uphold as physicians, every day of our lives. Yet to get a nightly call, DO I have enough money to go onto the next week, was very hard to deal with. Mr. Trustee destroyed my dad by calling the Diana Melton Irrevocable Trust a NET Winner. It would have provided my father with funds and mental stability. That is wrong and the Trustee took my father away from his family.

I am sorry, but your interpretation of what you thought went on with the formulation of the Diana Melton Irrevocable Trust and what actually was requested and ignored is what I am contesting. You can state all you want, get reimbursed by making up more "stories" that fit your mold but that is NOT what went down.

I am requesting all documentation on your part , including exactly what the programmer's did , to continue a new TIN and name with the same account number. That WAS NEVER requested by any of us. We had the attorney form the new entity with a new name, TIN - and when registered with BLMIS , should have been given a NEW account number.

That was a brand new account with all the proceeds put in fresh - and withdrawn from the after tax account of DR Ernest Melton.

Thank you for reading this but not for what you did to my father. Enjoy your lives knowing you put a knife through a wonderful, brilliant man's last year of his life that he finally ended. Maybe you could rectify the situation as it really happened and declare Diana Melton Irrevocable Trust, a NET LOSER.

It may give him a little peace, in his grave, alongside mom's, which I just visited to hopefully give him some pleasure by showing both of them a picture of their first newborn great grandchild, name after him. During his life, he did more for medicine and patients in Brooklyn and NY than most people could ever achieve. He was the negotiator who helped put Medicare into place in NY and was an excellent and caring physician.

Please take all this into account and stop handing me fictitious statements that were created in the accompanying pdf.

Alan Melton MD

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**From:** Chan, Angeline <[achan@bakerlaw.com](mailto:achan@bakerlaw.com)>  
**Sent:** Tuesday, April 30, 2019 10:25 AM  
**To:** [bernstein.chambers@nysb.uscourts.gov](mailto:bernstein.chambers@nysb.uscourts.gov)  
**Cc:** Andrew Melton <[amelton@a2amedia.com](mailto:amelton@a2amedia.com)>; [alanrmelton@gmail.com](mailto:alanrmelton@gmail.com); Cremona, Nicholas J. <[ncremona@bakerlaw.com](mailto:ncremona@bakerlaw.com)>; Rose, Jorian L. <[jrose@bakerlaw.com](mailto:jrose@bakerlaw.com)>; Vanderwal, Amy E. <[avanderwal@bakerlaw.com](mailto:avanderwal@bakerlaw.com)>  
**Subject:** SIPC v. BLMIS - Adv. Pro. No. 08-01789 (SMB)

We are counsel to Irving H. Picard, Esq., as Trustee for the substantively consolidated SIPA liquidation of Bernard L. Madoff Investment Securities LLC and the Estate of Bernard L. Madoff, and plaintiff, in the above-referenced adversary proceeding.

Enclosed for your consideration is the proposed Order (the "Order"), in the above referenced adversary proceeding. If the Order meets with Your Honor's approval, we respectfully request that it be signed and entered on the Court's docket. A hard copy of the proposed Order will be transmitted to Your Honor via FedEx.

If the Court has any questions, please do not hesitate to have a member of Your Honor's staff contact Nicholas J. Cremona, Esq. at 212-589-4682 or [ncremona@bakerlaw.com](mailto:ncremona@bakerlaw.com).

Respectfully,

**Angeline Chan**  
Paralegal

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